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In re Application of PACHOLIK et al
U.S. Application No.: 09/913,938
Int. Application No.: PCT/SE00/00066
Int. Filing Date: 14 January 2000
Priority Date: 02 March 1999
Attorney Docket No.: 003300-817
For: COPPER RECOVERY PROCESS

DECISION

This is in response to the "Request for Reconsideration to Confirm October 2, 2001 Filing Date of Signed Declaration" filed 25 February 2002.

BACKGROUND

On 14 January 2000, applicants filed international application PCT/SE00/00066, which claimed priority of an earlier Sweden application filed 02 March 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 08 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 September 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 September 2001 (02 September 2001 was a Sunday preceding a Monday holiday).

On 20 August 2001, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a Transmittal Letter and the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 October 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 February 2002, applicants filed a petition along with a copy of a declaration and a copy of a return postcard receipt. The petition requested that the copy of the declaration be accorded an original filing date of 02 October 2001.

On 15 February 2002, this Office mailed a decision dismissing the 07 February 2002 petition on grounds that the copy of the return postcard did not list a declaration in its itemized contents.

On 25 February 2002, applicants filed the present request for reconsideration, which is being treated as a renewed petition. The renewed petition states that it is accompanied by a copy of a return postcard which lists a declaration in its itemized contents and bears a USPTO date stamp of 02 October 2001.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 02 October 2001. Specifically, the copy of the return postcard, which includes an "Executed Declaration" in its itemized contents and which bears a USPTO date stamp of 02 October 2001, serves as *prima facie* evidence that the declaration was received by the USPTO on 02 October 2001.

It is noted that the copy of the declaration filed with the present petition does not explicitly identify the specification to which it is directed. The petition states that a Transmittal Letter accompanied the declaration as filed on 02 October 2001. A copy of the Transmittal Letter has been submitted (see "Exhibit A"). The copy of the return postcard, which includes a "Transmittal Letter for Missing Parts of Application" in its itemized contents, serves as *prima facie* evidence that the Transmittal Letter was received by the USPTO on 02 October 2001. A review of the Transmittal Letter reveals that International Application Number PCT/SE00/00066 and U.S. Application Number 09/913,938 are identified. Furthermore, the attorney's docket number listed on the declaration is identical to that listed on both the 02 October 2001 Transmittal Letter and the 20 August 2001 Transmittal Letter. In view of the additional identifying information, the declaration filed 02 October 2001 is deemed to comply with 37 CFR 1.497(a)(2).

CONCLUSION

For the reasons above, the present renewed petition is GRANTED.

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 15 October 2001 is hereby VACATED.

The present application has an International Filing Date of 14 January 2000 and a date under 35 U.S.C. 371 of 02 October 2001.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision.



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